

ANTRIM ZONING BOARD OF ADJUSTMENT

P. O. Box 517

Antrim, New Hampshire 03440

Phone: 603-588-6785 FAX: 603-588-2969



INSTRUCTIONS FOR APPLICATION TO THE ZBA

APPLICATION PROCEDURE

1. The Board strongly recommends that before making any application, you become familiar with the Zoning Ordinance.
2. This form and all required information must be filed with the Land Use Office along with fees sufficient to cover the cost of advertising and mailing the legally-required notices. Checks are made payable to the Town of Antrim.
3. If an application is incomplete or unclear, the applicant will be notified, and a meeting will be set up to discuss the application. Please refer to Page 2 for the requirements for a Completed Application.
4. The completed application will be placed on the agenda for a public hearing within 30 days of filing. Public notice of the hearing will be posted and printed in a newspaper, and notice will be mailed to you and to all abutters and to other parties whom the Board may deem to have an interest, at least ten days before the date of the hearing. You and all other parties will be invited to appear in person or by agent or counsel to state reasons why the appeal should or should not be granted.
5. After the public hearing, the Board will reach a decision. Within five (5) business days of the date of the decision, you will be sent a Notice of Decision and excerpts of the meeting minutes as they pertain to your case. In the event of disapproval, the Notice will include the reasons for the decision and state what corrective action needs to be taken by the applicant.
6. If you believe the Board's decision is wrong, you have the right to appeal. The Selectmen or any party affected has similar rights to appeal the decision in your case. To appeal, you must first ask the Board for a rehearing. The motion for rehearing must be in the form of a letter to the Board. The motion must be made within 30 days of the Board's decision and must set forth the grounds on which it is claimed the decision is unlawful or unreasonable.
7. The Board may grant such a rehearing if, in its opinion, good reason is stated in the motion. The Board will not reopen a case based on the same set of facts unless it is convinced that an injustice would be created by not doing so. Whether or not a rehearing is held, you must have requested one before you can appeal to the courts. When a rehearing is held, the same procedure is followed as for the first hearing, including public notice and notice to abutters. See RSA Chapter 677 for more detail on rehearing and appeal procedures.

REQUIREMENTS FOR A COMPLETED APPLICATION

Instructions: Complete and sign the application form and applicable sections of the attached instruction sheet and submit these along with any plans or documentation, together with a list of abutters with mailing addresses, and the application fee. For any application, the application form must be properly filled out. The application form is intended to be self-explanatory, but shall include:

1. **WHO** owns the property? If the applicant is not the owner, a letter from the owner must be submitted that authorizes the applicant to act in his/her behalf.
2. **WHERE** is the property located? Include street address, parcel identification number, and zoning district.
3. **WHAT** do you propose to do? Provide written narrative and supporting documentation as necessary to demonstrate that the proposal meets the criteria necessary to obtain the requested relief from the Zoning Ordinance.
4. **ABUTTERS LIST.** Prepare a list of all abutting property owners, verify the names and addresses at the Town Office, and attach it to your application. Per RSA 672:3, an *“Abutter” means any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board.* The accuracy of the list is **your** responsibility. Tax Maps are available at the Town Hall and on the Town of Antrim website to help you determine the lot numbers of your abutters. Once you have established the parcel identification number, you can then obtain your abutters’ names and addresses.
5. **OTHER PERTINENT INFORMATION TO PROVIDE (IF APPLICABLE).**
 - (a) Provide a plot plan of the lot as shown on the Town Parcel Map which shows the existing and proposed improvements, drawn to scale, along with existing and proposed setback distances.
 - (b) Provide pictures or construction plans showing each elevation (front, side, or rear) to which any improvements are proposed to be made.
 - (c) Applications that involve the Wetlands, Shoreland Protection, Aquifer and Wellhead Protection, or Floodplain Development Districts shall show the location of the Districts on the plot plan and provide at a minimum the following additional written information:
 - (i) Written narrative describing the proposed intrusion into the aforementioned districts, why it is necessary, why less alternatives are not available, and what steps will be taken during and after construction to minimize disruption of the Districts.
 - (ii) Applications involving wetlands shall submit a wetland delineation report by a professional, and the wetlands shall be flagged in the field for reference.

File # _____ Date Received _____ By _____
(For Office Use Only)

Name of Applicant: _____

Phone Number: _____ Email Address: _____

Address of Applicant: _____

Name of Owner(s) if different from Applicant: _____

Address of Owner(s): _____

Phone Number: _____ Street Location of Property: _____

Parcel Identification Number/Zoning District(s): _____

APPLICATION FEES

1. Application Filing Fee = \$150.00

2. Notification of Abutters, licensed professional(s) whose name and seal appear on the plan, and any holder of conservation easements:

\$10.00 per notification x _____ = \$ _____

3. Newspaper Notification = \$100.00

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Total Application Filing Fees: \$ _____

4. Filing Fees for the Hillsborough County Register of Deeds (if applicable):

a. Plan Recording (based on size of plat) – Payable to the Town of Antrim.

8 ½ x 11 = \$ 9

11 X 17 = \$ 9

17 X 22 = \$ 14

22 X 34 = \$ 24 = \$ _____

b. Notice of Decision - Payable to the Town of Antrim. \$20.00

Total Plan Filing Fees: \$ _____

Check the section below that applies, and fill in Sections 1-4 as appropriate. This application is not accepted unless all requirements have been met. Additional information may be supplied on a separate sheet.

_____Section 1: APPEAL FROM AN ADMINISTRATIVE DECISION

The undersigned alleges that an error has been made in the decision, determination, or requirement by the Code Enforcement Officer on _____ in relation to Article _____, Section _____ of the Zoning Ordinance and hereby appeals said decision.

_____Section 2: APPLICATION FOR SPECIAL EXCEPTION

The undersigned requests a special exception as provided in Article _____, Section _____ of the Zoning Ordinance to permit _____

_____Section 3: APPLICATION FOR VARIANCE

The undersigned requests a variance from Article _____, Section _____ of the Zoning Ordinance to permit _____

_____Section 4: APPLICATION FOR EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS

The undersigned requests that an Equitable Waiver of Dimensional Requirements from Article _____, Section _____ of the Zoning Ordinance be granted to correct _____

AGENT AUTHORIZATION (if applicable): I authorize _____ as my agent to represent me before the Antrim Zoning Board of Adjustment.

“I hereby authorized the Antrim Zoning Board of Adjustment and its agents to access my land, if deemed necessary, in order for the Board to make a properly-informed decision.”

Applicant Signature: _____

Date: _____

Section 1: APPEAL FROM AN ADMINISTRATIVE DECISION. Attach a letter to the application that states the reasons for your appeal. If your appeal has to do with the denial of a building permit on a Class VI or private road pursuant to RSA 674:41, you must respond demonstrate to the Zoning Board that all of the following criteria have been satisfactorily met:

(1) The denial of the building permit would entail practical difficulty or unnecessary hardship because

(2) The circumstances of the case do not require the building, structure or part thereof to be related to existing or proposed streets because _____

(3) The relief sought will not increase the difficulty of carrying out the master plan because _____

(4) The relief sought will not cause hardship to future purchasers or undue financial impact on the Town because _____

Section 2: APPLICATION FOR A SPECIAL EXCEPTION. Criteria to be met to grant this request (use additional sheets if necessary):

(1) The proposed use may be similar to one or more of the uses already authorized in that district and is in a appropriate location for such a use because: _____

(2) Such approval would not adversely affect the neighborhood, nor otherwise be injurious, obnoxious or offensive because: _____

(3) The use will not create excessive traffic congestion, noise, or odors in the neighborhood where it is proposed because: _____

(4) Such approval would be consistent with the intent of the zoning ordinance, after having given due consideration to recommendations received from the planning board because: _____

(5) Adequate and appropriate facilities will be provided for the proper operation of the proposed use, as follows: _____

(6) If the proposed special exception is listed in Article XIII D (Special Exception Uses) of the Antrim Zoning Ordinance, then it must meet all conditions of that article, as follows: _____

Section 3: APPLICATION FOR A VARIANCE. Criteria to be met to grant this request. Use additional sheets if necessary. (See Page 8 for guidance on these criteria.)

(1) The variance will not be contrary to the public interest because: _____

(2) The variance is consistent with the spirit of the ordinance because: _____

(3) Substantial justice is done by granting the variance because: _____

(4) The values of surrounding properties will not be diminished because: _____

(5) Literal enforcement of the provisions of the ordinance would result in unnecessary hardship.

(A) For the purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:

(i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because: _____

AND

(ii) The proposed use is a reasonable one because: _____

(B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

Section 4: APPLICATION FOR EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS.

When a lot or structure on a lot is discovered to be in violation of a physical layout or dimensional requirement imposed by the zoning ordinance, the Zoning Board shall grant an equitable waiver from the requirement(s) if and only if the Board makes ALL of the following findings:

- (1) That the violation was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, until after a structure in violation had been substantially completed, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value.
- (2) That the violation was not an outcome of ignorance of the law or ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent or representative, but was instead caused by either a good faith error in measurement or calculation made by an owner or owner's agent, or by an error in ordinance interpretation or applicability made by a municipal official in the process of issuing a permit over which that official had authority.
- (3) That the physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other property in the area, nor interfere with or adversely affect any present or permissible future uses of any such property.
- (4) That due to the degree of past construction or investment made in ignorance of the facts constituting the violation, the cost of correction so far outweighs any public benefit to be gained, that it would be inequitable to require the violation to be corrected.

VARIANCE CRITERIA GUIDELINES*

Statutory Requirements (RSA 674:33, I (b)) <i>APPLICANT MUST SATISFY <u>ALL</u> OF THE FOLLOWING:</i>	Explanation
1. The variance is not contrary to the public interest.	The proposed use must not conflict with the explicit or implicit purpose of the ordinance, and must not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure “public rights.” As it is in the public’s interest to uphold the spirit of the ordinance, these two are related.
2. The spirit of the ordinance is observed.	
3. Substantial justice is done.	The benefit to the applicant should not be outweighed by harm to the general public.
4. The values of surrounding properties are not diminished.	Expert testimony on this question is not conclusive, but cannot be ignored. The board may also consider other evidence of the effect on property values, including personal knowledge of the members themselves.
5. Literal enforcement of the ordinance would result in unnecessary hardship. Unnecessary hardship can be shown in either of two ways: First is to show that because of special conditions of the property that distinguish it from other properties in the area: (a) There is no fair and substantial relationship between the general purposes of the ordinance provision and the specific application of that provision to the property; and (b) The proposed use is a reasonable one. <i>Alternatively</i> , unnecessary hardship exists if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.	The applicant must establish that the property is burdened by the zoning restriction in a manner that is distinct from other land in the area. (a) Determine the purpose of the zoning restriction in question. The applicant must establish that, because of the special conditions of the property, the restriction, as applied to the property, does not serve that purposed in a “fair and substantial” way. (b) The applicant must establish that the special conditions of the property cause the proposed use to be reasonable. The use must not alter the essential character of the neighborhood. <i>Alternatively</i> , the applicant can satisfy the unnecessary hardship requirement by establishing that, because of the special conditions of the property, there is not reasonable use that can be made of the property that would be permitted under the ordinance. If there is any reasonable use (including an existing use) that is permitted under the ordinance, this alternative is not available.
<i>*Taken from the NH Office of Strategic Planning Zoning Board Handbook</i>	